

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 17th day of February, two thousand sixteen.

PRESENT:

ROBERT A. KATZMANN,
Chief Judge,
BARRINGTON D. PARKER,
DEBRA ANN LIVINGSTON,
Circuit Judges.

LEANDRO REINERIO TERREROS-TERREROS,
Petitioner,

v.

13-1487
NAC

LORETTA E. LYNCH, UNITED STATES
ATTORNEY GENERAL,
Respondent.

FOR PETITIONER: H. Raymond Fasano, New York, New York.

FOR RESPONDENT: Stuart F. Delery, Assistant Attorney General; Nancy E. Friedman, Senior Litigation Counsel; Virginia Lum, Trial Attorney, Office of Immigration Litigation, United States Department of Justice, Washington, D.C.

1 UPON DUE CONSIDERATION of this petition for review of a
2 Board of Immigration Appeals ("BIA") decision, it is hereby
3 ORDERED, ADJUDGED, AND DECREED that the petition for review
4 is DISMISSED.

5 Petitioner Leandro Reinerio Terreros-Terreros, a native
6 and citizen of Ecuador, seeks review of a March 29, 2013,
7 decision of the BIA, affirming the April 11, 2012, decision
8 of Immigration Judge ("IJ") Michael W. Straus, which denied
9 his application for asylum, withholding of removal, and
10 relief under the Convention Against Torture ("CAT"). *In re*
11 *Leandro Reinerio Terreros-Terreros*, No. A089 013 405 (B.I.A.
12 Mar. 29, 2013), *aff'g* No. A089 013 405 (Immig. Ct. Hartford
13 Apr. 11, 2012). We assume the parties' familiarity with the
14 underlying facts and procedural history in this case.

15 Under the circumstances of this case, we review the
16 IJ's decision as supplemented by the BIA. *See Chen v.*
17 *Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). The applicable
18 standards of review are well established. *See* 8 U.S.C. §
19 1252(b)(4)(B); *Chen*, 417 F.3d at 271.

20 A. Asylum

21 Terreros-Terreros fails to challenge the agency's
22 pretermission of his asylum application as untimely in his
23 brief to this Court. *See* 8 U.S.C. § 1158(a)(2)(B); *Zhang v.*

1 *Gonzales*, 426 F.3d 540, 541 n.1, 545 n.7 (2d Cir. 2005)
2 (issues not sufficiently argued in the briefs are considered
3 waived). Accordingly, he has waived any challenge to the
4 agency's denial of asylum.

5 B. Withholding of Removal and CAT

6 Here, the IJ found that, even if Terreros-Terreros had
7 been able to establish past persecution on account of a
8 protected ground, his claim would fail because he could
9 safely relocate within Ecuador as he had lived in Quito for
10 a month without incident. The agency's regulations provide
11 that "an immigration judge . . . shall deny the asylum
12 application of an alien found to be a refugee on the basis
13 of past persecution if . . . [t]he applicant could avoid
14 persecution by relocating to another part of the applicant's
15 country of nationality . . . and under all the
16 circumstances, it would be reasonable to expect the
17 applicant to do so." 8 C.F.R. § 1208.13(b)(1)(i); see also
18 *Singh v. BIA*, 435 F.3d 216, 219 (2d Cir. 2006). The BIA
19 found that Terreros-Terreros failed to challenge this
20 dispositive finding on appeal.

21 We have never held that a petitioner is limited to the
22 "exact contours" of his argument to the agency. *Gill v.*

1 *INS*, 420 F.3d 82, 86 (2d Cir. 2005). On the contrary, we
2 have held that 8 U.S.C. Section 1252(d)(1) does not prevent
3 us from considering "specific, subsidiary legal arguments,
4 or arguments by extension," even if those arguments were not
5 presented below. *Gill*, 420 F.3d at 86; see *Restrepo v.*
6 *McElroy*, 369 F.3d 627, 633 n.10 (2d Cir. 2004); *Drax v.*
7 *Reno*, 338 F.3d 98, 112 n.19 (2d Cir. 2003). In determining
8 which arguments constitute "issues," which must be
9 exhausted, and which constitute "subsidiary arguments,"
10 which do not, we examine whether an unexhausted argument
11 "constitutes a ground, in and of itself, on which an IJ's
12 denial of [relief] may be based." See *Steevenez v. Gonzales*,
13 476 F.3d 114, 117-118 (2d Cir. 2007). Accordingly, when a
14 petitioner fails to challenge the IJ's finding that he could
15 relocate safely within his country, we decline to consider
16 that unexhausted argument because, on its own, internal
17 relocation is a proper basis for a denial of relief. *Id.*

18 Here, Terreros-Terreros argued before the BIA that he
19 "could not escape" participating in the gang, "could not
20 secure any protection from the Ecuadorian government," and
21 noted that there was widespread "corruption within the
22 country." Terreros-Terreros also stated in the conclusion

1 that he was "unable and unwilling to return" to Ecuador
2 because of his fear. The BIA reasonably deemed these
3 statements insufficient to challenge the IJ's internal
4 relocation finding.

5 In addition, the BIA found that Terreros-Terreros
6 failed to challenge the denial of CAT relief in his
7 counseled brief, and deemed it waived. Thus, as a statutory
8 matter, we are without jurisdiction to consider any
9 challenge to the denial of CAT relief. 8 U.S.C.
10 § 1252(d)(1); *Karaj v. Gonzales*, 462 F.3d 113, 119 (2d Cir.
11 2006).

12 For the foregoing reasons, the petition for review is
13 DISMISSED. As we have completed our review, any stay of
14 removal that the Court previously granted in this petition
15 is VACATED, and any pending motion for a stay of removal in
16 this petition is DISMISSED as moot. Any pending request for
17 oral argument in this petition is DENIED in accordance with
18 Federal Rule of Appellate Procedure 34(a)(2), and Second
19 Circuit Local Rule 34.1(b).

20 FOR THE COURT:
21 Catherine O'Hagan Wolfe, Clerk
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